

Access to and use of judicial and other personal data in criminological research: Privacy and data protection perspectives

International seminar 'Researching impact of judicial interventions: Methodological and deontological questions'

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Structure

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introduction | preliminary observations

data gathered without consent persons concerned

extension initial data with newly gathered data

- through upgrade from other sources (socio-economic info)
- through interviews

(ex-post) solutions?

Q&A

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due respect for privacy & data protection as an integral part of

- any research methodology involving person-related data
- deontological research protocols (legally guaranteed respect for individuals)

privacy and data protection: interrelated, not identical

data protection: processing of personal data

addressing certain misunderstandings within research community

- personal data
 - identified or identifiable persons
 - inclusive of encoded data
- processing
 - even mere collection
 - anonymous reporting being insufficient

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Introduction | Preliminary observations | 2

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importance of differentiation between

- access
- processing (incl. use & reporting)

information security throughout research process

equally important in quantitative and qualitative research

- even higher risk of identifiability in qualitative research (smaller data sets)

additional hurdles for sensitive data

judicial; also: ethnic, health etc.

equally protective for (non)offenders/victims

access to data from data controllers having different/incompatible purposes

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Data gathered without consent persons concerned

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for data from judicial files: consent person concerned insufficient
access to be granted by judicial data controller

having been granted such access does not allow personal data processing

- specifically requested non-anonymous/encoded processing?
- if yes: only allowed for data controller after permission DPA
- if no: data set violates data protection law + mere ex-post consent person concerned does not alter that (supra)

prior existence data processing, information security and deletion plan?

prior deliberation need for other than anonymous or encoded data?

Extension initial data with newly gathered data

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through upgrade from other sources (socio-economic info)

- unlawful initial data and lack of consent will remain obstacles
- reluctance new data providers to provide, especially if non-encoded
- linking data: by whom? prohibition to link on researchers' level

through interviews

no direct contacting allowed

- unlawful initial data set
- opt-in requirement

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(Ex-post) solutions?

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precise data processing plan

- including necessity and proportionality test
- duly motivating possible need for (non)encoded (vs anonymous) data
- notification DPA for authorisation later use for scientific purposes

choice between

- aggregate existing data set (to avoid later re-identification or link possibility) + opt for encoded data processing + link data through independent official intermediary organisation + seek relevant authorisations from respective DPA sectoral committees + respect prohibition to try and re-identify/link
 - alternative (future): dual layer hashing system (Montrasec)
- collect initial informed written consent (through original data controllers) for processing, including linkage & follow-up through interviews

proper data security management

anonymous reporting

deletion non-anonymous (even encoded) data set

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Questions | discussion

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